

OFFICE OF THE GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: Century Cellunet, Inc., et al. v. FCC & USA, Nos. 94-1140 and 94-1141. Filing of a new Petition for Review and a new Notice of Appeal in the United States Court of Appeals for the District of Columbia Circuit

DATE: March 7, 1994

Docket No(s). CC 94-11

File No(s). 10209-CL-P-715-B-88

This is to advise you that on February 24, 1994, Century Cellunet, Inc., et al. filed with United States Court of Appeals for the District of Columbia Circuit a:

X Section 402(a) Petition for Review
X Section 402(b) Notice of Appeal

of the following FCC decision: In re Application of Telephone and Data Systems, Inc., 6 FCC Rcd 270 (CCB 1991), review denied in part and granted in part, FCC 94-29, released February 1, 1994. Century, et al. seeks review and appeal the MO&O in that the FCC ruled that applicant Telephone and Data Systems, Inc. did not violate the FCC's so-called cross-ownership prohibition for cellular radio applications, 47 C.F.R. Sec. 22.921(b).

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed these cases as Nos. 94-1140 and 94-1141 and the attorney assigned to handle the litigation of these cases is Roberta L. Cook.

Daniel M. Armstrong

cc: General Counsel
Office of Public Affairs
Shepard's Citations

Cost
COPY

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CENTURY CELLUNET, INC.,
CONTEL CELLULAR, INC.,
COON VALLEY FARMERS TELEPHONE
COMPANY, INC.,
FARMERS TELEPHONE COMPANY,
HILLSBORO TELEPHONE COMPANY,
LAVALLE TELEPHONE COOPERATIVE,
MONROE COUNTY TELEPHONE COMPANY,
MOUNT HOREB TELEPHONE COMPANY,
NORTH-WEST CELLULAR, INC.,
RICHLAND-GRANT TELEPHONE
COOPERATIVE, INC.,
VERNON TELEPHONE COOPERATIVE, and
VIROQUA TELEPHONE COMPANY,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents.

United States Court of Appeals
For the District of Columbia Circuit

FILED FEB 24 1994

RON GARVIN
CLERK

94-1140

No. _____

PETITION FOR REVIEW

COMES NOW, Century Cellunet, Inc., Contel Cellular, Inc., Coon Valley Farmers Telephone Company, Inc., Farmers Telephone Company, Hillsboro Telephone Company, LaValle Telephone Cooperative, Monroe County Telephone Company, Mount Horeb Telephone Company, North-West Cellular, Inc., Richland-Grant Telephone Cooperative, Inc., Vernon Telephone Company and Viroqua Telephone Company (collectively the "Settlement Group"), pursuant to Section 402(a) of the Communications Act of 1934, as amended, 47 U.S.C. §402(a),

the Judicial Review Act of 1950, as amended, 28 U.S.C. §2341, et seq., and Rule 15(a) of the Federal Rules of Appellate Procedure, and jointly petition the United States Court of Appeals for the District of Columbia Circuit to review and reverse the Memorandum Opinion and Order and Hearing Designation Order (MO&O) issued in File No. 10209-CL-P-715-B-88 by the Federal Communications Commission (FCC) sub nom. Telephone and Data Systems, Inc., FCC 94-29, adopted and released February 1, 1994. A copy of the MO&O is annexed hereto.

Review is sought because in the MO&O the FCC erroneously ruled that applicant Telephone and Data Systems, Inc. (TDS) did not violate the FCC's so-called "cross-ownership" prohibition for cellular radio applications, 47 C.F.R. §22.921 (b), when TDS itself refused at the last minute to join a partial settlement group while nonetheless maintaining membership in the group through a subsidiary company.

WHEREFORE, the Settlement Group respectfully prays that this Honorable Court reverse and set aside the MO&O and that it remand the proceeding to the FCC.

Respectfully submitted,

CENTURY CELLUNET, INC.
CONTEL CELLULAR, INC.
COON VALLEY FARMERS TELEPHONE
COMPANY, INC.
FARMERS TELEPHONE COMPANY
HILLSBORO TELEPHONE COMPANY
LAVALLE TELEPHONE COOPERATIVE
MONROE COUNTY TELEPHONE COMPANY

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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OFFICE OF
GENERAL COUNSEL

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COON VALLEY FARMERS TELEPHONE
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LAVALLE TELEPHONE COOPERATIVE,
MONROE COUNTY TELEPHONE COMPANY,
MOUNT HOREB TELEPHONE COMPANY,
NORTH-WEST CELLULAR, INC.,
RICHLAND-GRANT TELEPHONE
COOPERATIVE, INC.,
VERNON TELEPHONE COOPERATIVE, and
VIROQUA TELEPHONE COMPANY,

Appellants,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Appellee.

No. 94-1141

Re: 2/24/94

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, pursuant to Section 402(b) of the Communications Act of 1934, as amended, 47 U.S.C. §402(b), and Rule 15(a) of the Federal Rules of Appellate Procedure, that Century Cellunet, Inc., Contel Cellular, Inc., Coon Valley Farmers Telephone Company, Inc., Farmers Telephone Company, Hillsboro Telephone Company, LaValle Telephone Cooperative, Monroe County Telephone Company, Mount Horeb Telephone Company, North-West Cellular, Inc., Richland-Grant Telephone Cooperative, Inc., Vernon Telephone

Company and Viroqua Telephone Company (collectively the "Settlement Group") jointly appeal to the United States Court of Appeals for the District of Columbia Circuit the Memorandum Opinion and Order and Hearing Designation Order (MO&O) issued in File No. 10209-CL-P-715-B-88 by the Federal Communications Commission (FCC) sub nom. Telephone and Data Systems, Inc., FCC 94-29, adopted and released February 1, 1994. A copy of the MO&O is annexed hereto.

Appeal is taken because in the MO&O the FCC erroneously ruled that applicant Telephone and Data Systems, Inc. (TDS) did not violate the FCC's so-called "cross-ownership" prohibition for cellular radio applications, 47 C.F.R. §22.921 (b), when TDS itself refused at the last minute to join a partial settlement group while nonetheless maintaining membership in the group through a subsidiary company.

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